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NAPHSIS

July 31, 2013

The Honorable Sam Johnson  
Chairman, Subcommittee on Social  
Security  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

The Honorable Xavier Becerra  
Ranking Member, Subcommittee on  
Social Security  
Committee on Ways and Means  
U.S. House of Representatives  
Washington, DC 20515

Dear Chairman Johnson and Ranking Member Becerra:

NAPHSIS—the association representing the 57 jurisdictions with legal authority for vital records in the United States —strongly supports H.R. 2720, the *Alexis Agin Identity Theft Protection Act of 2013*. This legislation successfully strikes a delicate balance between mitigating fraud associated with the Death Master File (DMF) and providing for continued DMF use by certified entities for administrative purposes. Recognizing that the Social Security Administration (SSA) is not a statistical agency and managing the DMF is thus not part of the agency's core mission, this legislation phases out the DMF altogether on January 1, 2019, at which point the vital records jurisdictions—50 states, five territories, District of Columbia, and New York City—will be equipped to accept queries from governmental and nongovernmental entities requiring access to death data for administrative purposes through the Electronic Verification of Vital Events (EVVE) system.

Specifically, NAPHSIS supports your legislation because:

- 1) **H.R. 2720 protects individual privacy and state rights.** Under our constitutional framework, vital records are the responsibility of the states and thus governed by state laws. The laws governing what information may be shared, with whom, and under what circumstances vary by jurisdiction. In most jurisdictions, access to death records is restricted to family members for personal or property rights, to government agencies in pursuit of their official duties, or for research purposes. An example of effective federalism, H.R. 2720 recognizes the importance of the states' rights, the state laws that govern vital records, and the privacy of state residents even once deceased. This legislation maintains important provisions of current law in place since 1983 that the DMF released to the public exclude death records that SSA obtained solely from vital records jurisdictions because of state statutory confidentiality restrictions. Jurisdiction-only reported death data should never be released in the public DMF—without a secondary source to verify, these data must be treated as confidential in compliance with state laws.
- 2) **H.R. 2720 provides necessary safeguards for fraud prevention.** The Intelligence Reform and Terrorism Prevention Act of 2004 requires vital records jurisdictions to match birth and death records once a death has

occurred, and to mark the birth record “deceased.” This process is critical for protecting against identity theft, but it cannot happen instantaneously, particularly when a person dies in a different state than s/he was born. It takes some time for the death record to be transmitted to the jurisdiction of birth and for the birth record to be marked as deceased, as in some vital records jurisdictions this remains a manual process. To protect the Public DMF from being used for identity theft, H.R. 2720 delays the release of data in the Public DMF by three years after an individual’s date of death. This will allow sufficient time for vital records jurisdictions to match the death record with the decedent’s birth record and to mark the birth record “deceased,” thus preventing the birth record’s use for identity theft.

- 3) **H.R. 2720 preserves states’ essential operating revenue.** Most vital records jurisdictions are fully or partly “fee-funded,” through the sale of certified copies of vital records and fees associated with federal data use agreements, including SSA. Many do not receive any state appropriated funds. Expanding access to the full DMF – which includes death data provided to SSA by the jurisdictions – to other entities for broader data uses would undermine the jurisdictions’ essential operating revenue, and the cost of vital records operations would be shifted onto state residents in fee-charged copies of birth and death certificates. Similarly, such expanded use would place undue burden on SSA, which is prohibited from using Trust Fund dollars to support the costs of administering and sharing the full DMF. H.R. 2720 appropriately limits the use of the full DMF to administrative purposes. Where use is expanded to other entities, the legislation requires that SSA be reimbursed by those entities to support not only SSA and its associated costs, but also the jurisdictions and their costs associated with the maintenance and collection of death data. H.R. 2720 appropriately recognizes that SSA should not bear financial responsibility for the expanded use of death data provided to SSA by the states.
- 4) **H.R. 2720 appropriately phases out public access to the DMF.** SSA is a federal benefits agency, not a statistical agency. As such, SSA should not be responsible for maintaining a public dataset. Indeed, audits have shown that the agency lacks:
  - The requisite expertise to assure the DMF’s accuracy and quality, and;
  - The legal authority to secure from identity theft and fraud the dataset itself and individuals’ data contained therein.

Social security numbers (SSN) obtained from the DMF have been implicated in crimes where identity thieves obtained illegal refunds using deceased children’s SSNs, costing the Department of Treasury \$1.25 billion last year alone. The rightful taxpayer, who is usually the parent of a deceased child, has a delayed refund while the matter is investigated and their annual tax return is complicated for years to come. H.R. 2720 recognizes this financial risk and personal harm the DMF poses, and appropriately phases out the database altogether.


At such time the DMF is no longer available, vital records jurisdictions will be ready to accept queries directly from approved governmental and nongovernmental entities requiring access to death records for administrative purposes through EVVE.

EVVE is an online system that provides authorized users at participating entities with a single interface to quickly, reliably, and securely validate birth and death information at any participating vital records jurisdiction in the country, circumventing the need for a national database of such information. In so doing, *no additional personal information is divulged* to the person verifying information—EVVE simply relays a message that there was, or was not a match, with the birth and death records maintained by the vital records jurisdictions. In addition, EVVE has the capability to flag individuals who are deceased, eliminating a key loophole whereby thieves use a valid birth certificate of a deceased individual to create a new identity.

EVVE is currently installed in 49 vital records jurisdictions, with death query capability available in 27 of them. NAPHSIS is working to install EVVE in the remaining jurisdictions. NAPHSIS is also working with those jurisdictions that do not currently have death query capability to make their death data available through EVVE.

NAPHSIS greatly appreciates your leadership on this critical issue, and stands ready to support you as you work to advance this bipartisan legislation. If you have questions, please do not hesitate to contact me at [ppotrzebowski@naphsis.org](mailto:ppotrzebowski@naphsis.org) or (301) 563-6001. You may also contact our Washington representative, Emily Holubowich, at [eholubowich@dc-crd.com](mailto:eholubowich@dc-crd.com) or (202) 484-1100.

Sincerely,

A handwritten signature in cursive script, reading "Patricia W. Potrzebowski".

Patricia W. Potrzebowski, Ph.D.